



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,548	12/02/2005	Yoshinori Hachisu	021964/337039	5238

826 7590 08/01/2008

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

NASH, BRIAN D

ART UNIT	PAPER NUMBER
----------	--------------

3721

MAIL DATE	DELIVERY MODE
-----------	---------------

08/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,548	Applicant(s) HACHISU, YOSHINORI	
	Examiner Brian Nash	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's Comments

1. This action is in response to applicant's amendment received 7/2/2008. The pending claims are now 1 and 5-6.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is not clear what additional structural limitations are encompassed by the amended phrase "exposed to an outside to allow manual rotary operation thereon". Since an article being riveted by the apparatus of Hagmann et al must pass through the area encompassing the button holder, it clearly seen that some portion of the button holder is "exposed to an outside". Appropriate correction and explanation is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,978,046 to Hagmann et al. Hagmann et al shows the same button-attaching device and method of use as claimed:

With respect to claim 1, an upper die (11), a lower die (21) on which a button coupler (24) is disposed, a button holder (63) that is part of a button holder moving unit (60,72) that temporarily holds the button (15); the button holder (63) located on a button holder moving unit (60,72) transfers button

Art Unit: 3721

from the button holder (63 - while in a retracted position) to the upper die (11 via 12,13 – when in an extended position) (see Figs. 4-8) via a circular trajectory (end of lever 72 rotates clockwise around a shaft 73 – Fig. 3). Hagmann et al show a button holding position (Fig. 4) prior to the button (15) traveling along an arcuate path via the pivotal movement of lever (72) about (73), i.e. outside a lifting path of the upper die (11). Fig 5 shows the button (15) at the end of the arcuate trajectory and in the transferring position, i.e. the button transferring position is within the lifting path of the upper die (11).

Hagmann et al further disclose an end of the rotating member (lever 72) that rotates about a rotating shaft (73), one end of (72) is connected to the button holder (63); a resilient member (spring 75) is connected to the rotating member (72 - Fig. 6) and biases the button holder away from the button transferring position toward the button holding position, i.e. spring (75) is a compression spring that when expanded urges the button holder away from the upper die.

With respect to claim 5, the holder moving unit (60) that transfers button from the button holder (63 - while in a retracted position) to the upper die (11 via 13 – when in an extended position) also moves the button holder away from a lifting path of the upper die.

With respect to claim 6, upon the button moving unit transferring the button to the upper die (11), the button is oriented via engaging holder notches (13 – see column 10, lines 37+).

Response to Arguments

6. *In re* claim 1, applicant's arguments filed 7/2/2008 have been fully considered but they are not persuasive. Applicant contends, *inter alia*, that Hagmann et al does not meet the limitations of the claimed invention, specifically that Hagmann et al does not disclose a button holder exposed to an outside to allow manual rotary operation thereof. The Examiner acknowledges applicant's position; however, a reference is deemed to properly anticipate a claim when all the recited limitations are disclosed therein. As discussed below, Hagmann et al disclose all structural limitations. With respect to the newly added limitation, (see rejection under 112 second paragraph above), it is not clear what additional structural limitations are encompassed by the amended phrase "exposed to an outside...".

Art Unit: 3721

With respect to claim 1, as discussed above, Hagmann et al shows all the recited structural limitations including showing the button holding position located outside a lifting path of the upper die and the button transferring position located within the lifting path of the upper die; Hagmann et al also show a resilient member connected to the rotating member that biases the button holder away from the button transferring position, i.e. toward the button holding position. While it is noted that the device of Hagmann et al may not perform the same function or in the same manner as applicant's invention, it is deemed that the claims are not restrictive to such device. For the reasons above, the grounds for rejection are deemed proper.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is 571-272-4465. The examiner can normally be reached on Monday – Friday from 8 a.m. to 4 p.m.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at 571-272-4467. The official fax number for this Group is: 571-273-8300

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see www.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Brian D. Nash/
Primary Examiner, Art Unit 3721

7/31/2008